

Processing of FOIA and Privacy Act cases

I. Administrative Requirements

A. Initial requests

- B. Agency records: created or obtained by agency *and* under agency control at time of request; contrast personal records
- C. Proper requester: who can make FOIA requests? All but three types of entities
- D. Proper requests: reasonably describe records sought and in accordance w/agency regulations. Problems with the request can prevent it from being perfected
 - Fees -- why fee issue important: saves us work
 - Scoping -- be customer-friendly; see handout; one exception re: periodicals
 - Do not answer questions or create records
- E. Expediting requests -- two criteria in FOIA cases: imminent threat to life or safety of individual, or requester is a news person and information is relevant to subject of public urgency concerning an actual or alleged government activity. Example: Kasi
 - Decide whether to expedite within ten days
 - Nazi War Crimes Act: for survivors and their representatives -- expedite
- F. Directorates should explain *in English*, why it's withholdable -- we clarify, not challenge
- G. Segregate and release what we can
- H. A "perfected" request *and* a no records response, or we denied some, or we have not answered within 20 work days

I. Administrative Appeals

- If agency responds after 20 days but before suit filed, requester *must* exhaust her administrative remedies by appealing and waiting 20 additional days
- On appeal: a new pair of eyes
- Make sure proper Directorates were tasked
- Mistakes in processing affect our court case

Note: at initial and at appeal stage, no listing of documents, or putting specific exemptions next to redactions, is required

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